

### Remarks

The Office Action mailed March 2, 2005 has been carefully reviewed and the following remarks have been made in consequence thereof.

Claims 1-4 and 6-20 are now pending in this application. Claim 4 is allowed. Claims 1-3 and 6-20 are rejected.

Applicant respectfully traverses the objection to Claims 1, 7, and 19. The Examiner suggests to replace “at least one of a generator and a utility power source” with “at least one of a generator and at least one of a utility power source”.

Applicants respectfully submit that reciting “at least one of a generator and a utility power source” as recited in Claim 1 is similar to reciting at least one of A and B, where A and B are singular in form. Moreover, reciting “at least one of said utility power source and said generating power source” as recited in Claim 7 is similar to reciting at least one of the A and the B, where A and B are singular in form. Furthermore, reciting “at least one of said generator and said utility power source” as recited in Claim 19 is similar to reciting at least one of the A and the B, where A and B are singular in form.

However, “at least one of a generator and at least one of a utility power source” as suggested by the Examiner is similar to at least one of A and at least one of B, where A and B are singular in form. If A and B are each recited in a singular form, Applicant respectfully submits that it would not make sense to state at least one of A and at least one of B as suggested by the Examiner. If there is one A and one B, there is no need to state at least one of A and at least one of B as suggested by the Examiner. Accordingly, Applicant respectfully requests that the objection to Claims 1, 7, and 19 be withdrawn.

The rejection of Claims 1-3 and 6-20 under 35 U.S.C. § 103(a) as being unpatentable over Welches et al. (U.S. Patent Application Publication 2002/0036430 A1) in view of Blackett et al. (U.S. Patent No. 6,751,562) is respectfully traversed.

Welches et al. describe a system including a storage or power source that may consist of a highly ripple tolerant power source, such as a flywheel (paragraph 104). The highly ripple tolerant power source is used to provide "load required" ripple currents, as well as store bulk energy required for support of transients and overloads (paragraph 104). Each home (10, 20, 30) on a utility grid (110) of the system would have a fuel cell (40) or other power generation system to generate electricity (paragraph 55). The grid allows the individual homes to take power from the grid or to export power to the grid (paragraph 55).

Blackett et al. describe an intelligent electronic device ("IED") including switching and interface layers (324, 325) that complete a protocol stack and facilitate use of physical hardware which couples the device to a network (column 15, lines 1-4). The hardware may include an Ethernet interface, a modem, or other form of physical network connecting including RF based connections such as Bluetooth interfaces (column 15, lines 4-7). The interface layer (325) makes a physical connection with the network utilizing connections such as Ethernet, dial-up-modems, Point-to-Point Protocol (PPP), Serial Line Interface Protocol (SLIP), cellular modems, T1, Integrated Service Digital Network (ISDN), Digital Subscriber Line (DSL), Bluetooth, RF, fiber-optics or AC power line communications (column 15, lines 19-25).

Claim 1 recites a method for supplying power, the method comprising "supplying power to at least one critical device; supplying power to at least one essential device; remotely removing power to the at least one essential device while maintaining power to the at least one critical device, wherein said remotely removing power comprises remotely discontinuing power on receiving an instruction via the Ethernet to remotely remove power; and storing power supplied by at least one of a generator and a utility power source in an energy storage system when a supply of power to the at least one essential device is discontinued."

Neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest a method for supplying power as recited in Claim 1. Specifically, neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest storing power supplied by at least one of a generator and a utility power

source in an energy storage system when a supply of power to the at least one essential device is discontinued. Rather, Welches et al. describe storing, by a highly ripple tolerant power source, bulk energy required for support of transients and overloads. Welches et al. further describe generating electricity by a fuel cell or other power generation system. Blackett et al. describe making, by an interface layer within an intelligent end device, a physical connection with a network by utilizing connections such as Ethernet. Accordingly, neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest storing power as recited in Claim 1. For the reasons set forth above, Claim 1 is submitted to be patentable over Welches et al. in view of Blackett et al.

Claims 2 and 3 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2 and 3 are considered in combination with the recitations of Claim 1, Applicant submits that Claims 2 and 3 likewise is patentable over Welches et al. in view of Blackett et al.

Claim 7 recites an energy management system comprising “a generation module including at least one of a utility power source and a generating power source; a first set of at least one power distribution unit remote from said generation module and communicatively coupled to said generation module, wherein at least one of said at least one power distribution unit in the first set is connected to at least one essential device; a master control system remote from said generation module and said at least one power distribution unit in the first set, said master control system communicatively coupled to said generation module and said at least one power distribution unit in the first set; and an energy storage system configured to store power supplied by at least one of said utility power source and said generating power source when said at least one power distribution unit in the first set discontinues supplying power to the at least one essential device.”

Neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy management system as recited in Claim 7. Specifically, neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy storage system configured to store power supplied by at least one of the utility power source and the generating power source

when the at least one power distribution unit in the first set discontinues supplying power to the at least one essential device. Rather, Welches et al. describe a highly ripple tolerant power source that stores bulk energy required for support of transients and overloads. Welches et al. further describe a fuel cell or other power generation system that generates electricity. Blackett et al. describe an interface layer within an intelligent end device. The interface layer makes a physical connection with a network by utilizing connections such as Ethernet. Accordingly, neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy storage system configured to store power as recited in Claim 7. For the reasons set forth above, Claim 7 is submitted to be patentable over Welches et al. in view of Blackett et al.

Claims 8-18 depend, directly or indirectly, from independent Claim 7. When the recitations of Claims 8-18 are considered in combination with the recitations of Claim 7, Applicant submits that Claims 8-18 likewise are patentable over Welches et al. in view of Blackett et al.

Claim 19 recites an energy management system comprising “a generation module comprising at least two power sources comprising a generator and a utility power source; at least two power distribution units remote from said generation module and communicatively coupled to said generation module, at least one of said power distribution units connected to at least one critical device, remaining of said power distribution units connected to at least one essential device; a master control system remote from said generation module and said power distribution units, said master control system communicatively coupled to said generation module and said power distribution units, said master control system configured to remotely monitor said generation module and instruct the remaining of said power distribution units connected to the at least one essential device to stop supplying power to the at least one essential device; and an energy storage system configured to store power supplied by at least one of said generator and said utility power source when the remaining of said power distribution units connected to the at least one essential device is not supplying power to the at least one essential device.”

Neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy management system as recited in Claim 19. Specifically, neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy storage system configured to store power supplied by at least one of the generator and the utility power source when the remaining of the power distribution units connected to the at least one essential device is not supplying power to the at least one essential device. Rather, Welches et al. describe a highly ripple tolerant power source that stores bulk energy required for support of transients and overloads. Welches et al. further describe a fuel cell or other power generation system that generates electricity. Blackett et al. describe an interface layer within an intelligent end device. The interface layer makes a physical connection with a network by utilizing connections such as Ethernet. Accordingly, neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy storage system configured to store power as recited in Claim 19. For the reasons set forth above, Claim 19 is submitted to be patentable over Welches et al. in view of Blackett et al.

Claim 20 depends from independent Claim 19. When the recitations of Claim 20 are considered in combination with the recitations of Claim 19, Applicant submits that Claim 20 likewise is patentable over Welches et al. in view of Blackett et al.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 1-3 and 6-20 be withdrawn.

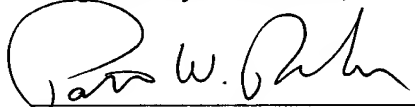
Moreover, Applicant respectfully submits that the Section 103 rejection of Claims 1-3 and 6-20 is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Welches et al. nor Blackett et al., considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Welches et al. with Blackett et al. because there is no motivation to combine the references suggested in the cited art itself.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Welches et al. teach storing, by a highly ripple tolerant power source, bulk energy required for support of transients and overloads. Welches et al. further teach generating electricity by a fuel cell or other power generation system. Blackett et al. teach making, by an interface layer within an intelligent end device, a physical connection with a network by utilizing connections such as Ethernet. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejections of Claims 1-3 and 6-20 be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick W. Rasche", written over a horizontal line.

Patrick W. Rasche

Registration No. 37,916

ARMSTRONG TEASDALE LLP

One Metropolitan Square, Suite 2600

St. Louis, Missouri 63102-2740

(314) 621-5070